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Science and the Military: The Weak FAS Reply to Holtzoff's Attack on Physicists, Page 2

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The Really Dangerous Vacuum Is Here In Washington

The statesman whose future memoirs we would most like to read at this moment are those of Nehru. No one in the world could have been more surprised when what is pompously being called the new Dulles or Eisenhower Doctrine emerged in the wake of his pleasant trip to Washington. If the tenor of the inspired stories which preceded and accompanied his visit were any clue to those long hours he spent with Mr. Eisenhower at Gettysburg, he must have been startled to learn on returning home that the upshot to their exploration of the subtle and complex problems of the Middle East was only to be another dose of Dr. Dulles's favorite household remedy, the threat of massive retaliation.

In retrospect the Washington he visited must appear to Pandit Nehru a Potemkin's Village, hastily erected to flatter and impress. He was greeted as an Eastern Sage and consulted like a wise Elder Brother. The United States had cut itself loose in the Suez crisis from Anglo-French colonialism and abjured power politics. Our reliance was to be on the United Nations and on the moral force of mankind. The Grand Design being unveiled in private talks with influential correspondents was, as the London *Economist* reported on December 15, "a very different matter indeed from the traditional concept of 'filling a vacuum' with military bases, alliances, puppet governments, or even economic subsidies." India's neutralist Prime Minister was cast for a key role and it was hoped that "a man like Mr. Nehru might be able to talk sense to a Nasser where the British Navy could not."

New Start on Disarmament Also Promised

Everything was done to make a peacemaker feel at home, and to erase any impression that American policy was too prone to wave its shootin' irons. There was one set of inspired stories saying that a major premise of American policy was now the fear that the unsteady Kremlin if too hard pressed might resort to war in desperation. Another, only a few days before Nehru's arrival, said there had been approved a new and hopeful plan to break the disarmament impasse. The Bulganin letter of November 17 was to be seized upon for negotiations looking toward an immediate reduction in armed forces, a thinning out of NATO and Warsaw pact troops, and even an attempt to limit and control development of the dreaded intercontinental ballistic missile. Mr. Nehru must have felt that he was coming to a capital at last prepared to welcome his message. It is easy to imagine the charming naivete and engaging sincerity with which Mr. Eisenhower discussed these hopes for peace with his visitor during that long day together on the farm.

Those whose ears are attuned to the realities of Washington began to realize the very next day that Mr. Eisenhower might have been receiving Pandit Nehru in a dream world. They were alone together on December 17. On December 18 Mr. Dulles held his first press conference since his operation. From his answer to that very first question about the Bulganin message ("there is no plan"), it was clear that the State Department was clinging firmly to its own version of what the French call "immobilisme." On disarmament, on satellite policy, on Germany, there was to be no change. The answers all reflected the same cold war state of mind, relying on containment and "situations of strength" to force further Soviet retreats without the necessity for any new initiatives in diplomacy. As for our own allies in NATO, Mr. Dulles was almost contemptuous in the brisk way he made it clear that we could not obligate ourselves to consult them.

The Same Old Doctrine

This was the spirit in which Mr. Dulles earlier proclaimed massive retaliation, and those who now reread his answers at that press conference will better understand the new "doctrine" being unveiled on the Middle East. The Dulles or Eisenhower Doctrine is like the Truman Doctrine before it, which Mr. Dulles also helped to formulate, a unilateral declaration of readiness to police the world by overwhelming force. The reappearance of the stale formula discloses again that while Mr. Eisenhower reigns, he does not govern; Mr. Stassen, his favorite, may have the President's ear but Mr. Dulles firmly holds his arm. The successive revisions of the reply to Bulganin and its emergence as a quick brush-off shows who is the boss.

It is not the reliance on threat of force which makes the "new" approach to the Middle East appalling. It is that the problems cannot be resolved by force. The "new" approach is really only the old lazy-minded abdication of diplomacy by those who are supposed to be our diplomats. It dodges the crucial problems of Arab-Israeli peace and a Suez settlement while covering this failure with the loud affirmation of the obvious. It takes no new declaration to make clear that a Soviet attack on the Middle East means war; that has been clear from the first and explains why Stalin backed down on Iran. The only excuse for this is cynical. It is that Congress cannot be made to acquiesce in loans for the Middle East except by a war scare and the Red menace.

If so the price paid is a heavy one. We dismiss the Arabs as a vacuum; downgrade Israel to a minor regional nuisance; announce that the Middle East is to be our preserve after helping to force our bitter Western allies out of it; ditch the UN just when it was hoped that it might begin to work. Even by oil company standards, this is not wise or adequate policy. More dangerous than that vacuum in the Middle East is the vacuum here in Washington.

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The FAS Makes A Weak Answer to Holtzoff's Attack on Physicists

AAAS Report Reveals How Dependent Science Now Is Upon The Military

The conscience of the scientific community is uneasy. In 1955 the American Association for the Advancement of Science set up an Interim Committee on the Social Aspects of Science. This committee made its report at the 1956 year end to the 123rd annual meeting of the AAAS in New York. The report is thoughtful and literate; the issue it raises momentous. It sees a scientific revolution underway in which man made processes are beginning to equal nature in their size and intensity. These may be used for good or evil, and the report asks scientists to face their moral and civic duty "to determine that these new powers shall be used for the maximum human good."

Except for the *New York Times*, which printed the text on December 31 and published a friendly editorial next day, the press gave this report scant attention. Yet it shows, in statistical detail and with considerable authority, how lopsidedly —and dangerously—science is developing. The main source of research funds for both private industry and the universities is now in the Federal government, and 84 percent of Federal expenditures on research this year will be for military purposes.

The Emphasis Is On Destruction

One result is disproportionately to emphasize the physical (as against the biological and social) sciences, i.e. the arts which destroy as against those which may heal. Only 13 percent of Federal research expenditure in 1954 went to the non-physical sciences. Another result is the slighting of pure research. Federal agencies allocate 90 percent and private industrial laboratories about 97 percent of their funds to applied research and development. Pure research is the stepchild. The military, to phrase it unscientifically, are more interested in the bang and industry in the buck.

This "practical" approach may prove self-defeating. The report says the progress of basic science is lagging and that "our present understanding of the structure of atoms and molecules, and of the behavior of living cells goes back to great illuminating propositions that are 25 years or more old." We are more concerned with obsolescence in bombers than theories.

Anything which does not promise immediate usefulness in war or in sales promotion tends to be neglected. This of course includes the non-lucrative and "civilian" problems of protecting the public from the noxious byproducts of the new technology. The report notes how little attention is being paid to the health hazards in nuclear radiation, in new food additives, and in industrial pollution of the atmosphere.

Propaganda, Not Science

When special projects to deal with such problems are set in motion, it is usually for some ulterior purpose, as in the National Academy of Science investigation last year into the biological hazards of radiation. The military bureaucracy seized certain tentative conclusions out of context and ignored the rest. The fact that the Academy did not think nuclear testing at the present rate an immediate hazard was given the widest publicity. But this new AAAS report notes that nothing has been done to implement the Academy's recommendations for safeguarding the population against the growing menace of radioactivity from all sources, military and civilian. The Academy report was used for propaganda, not science.

Obviously there is much the general public does not know and ought to know which can be learned only from the scientist, if he is public spirited enough and courageous enough to speak out. A striking example of the service he may perform is indicated by the way discussion of the radiation peril ended with the presidential campaign. Can the public only be alerted by political leadership, and by sensationalism? Is it not the duty of scientists to initiate sober discussion?

This is the question which haunts the AAAS and lies behind this report. The first obstacle which confronts the scientist anxious to fulfil his moral obligations is secrecy; the report shows the price of military subsidy has been an inordinate growth of restrictions on that free communication science requires. The report also shows that private industry, for competitive reasons, is as prone to secrecy as the military. Like any kept woman, science pays for its luxuries with its freedom.

A Freer Climate of Opinion

The second enemy is more serious still, and goes unmentioned in the report. The application of science to social problems, the appearance of the scientist on the political stage as a leading citizen, depends on the reestablishment of a freer climate of opinion. The general anti-intellectualism on which this report dwells has been intensified by Congressional Inquisition and the exaggerated security standards it has foisted on the government and through government on the laboratory. The price of a grant is a considerable degree of conformity.

The intellectual is prima facie an object of suspicion in both the U.S. and the U.S.S.R. The mentality the scientist must fight was evident here in Washington a few weeks ago when Federal Judge Alexander Holtzoff sentenced a young physicist, Bernard Deutch, to 90 days in jail for contempt of the House Un-American Activities Committee. Deutch admitted he had once been a member of the Communist party but declined on moral grounds to name others.

In sentencing him, Judge Holtzoff said the younger generation of pure scientists—he emphasized that he was talking only of "pure" scientists—had "succumbed to communistic propaganda." This judge's definition of "communistic" tends to be a wide one; he is a rightist and was, before his elevation the bench, legal adviser to J. Edgar Hoover. Those scientists who venture to discuss social questions must expect such people to view them as victims of communistic propaganda, if not worse. It is easier for the scientist to remain a second class citizen, voluntarily abdicating his rights in order to live more comfortably.

Worse Than No Defense at All

If the AAAS intends to encourage scientist participation in political discussion, it will need more courage than the Federation of American Scientists which sent a protest to Judge Holtzoff. The FAS, the last major organization of scientists-in-politics, has grown timorous. Its letter to the Judge said not one word in condemnation of the House Un-American Activities Committee, nor in support of Deutch's moral courage, nor in affirmation of the need for freedom.

The FAS felt that Holtzoff's remarks implied that "the future of this country and the freedom of the world may be in jeopardy because of the ideological unreliability of our young 'pure' scientists, especially physicists." The FAS answer in effect was to assert that most of the young physicists *were* ideologically reliable. The denial missed the point.

The real point is that science is attacked at its very heart, freedom of inquiry, when the State (like the Church before it) is permitted to judge and punish scientists for "idealogical unreliability." The FAS was guilty of treason to science when it acquiesced weakly in Holtzoff's premises. Thought cannot be "pure" without being dangerous, and there have been few great scientists from Galileo to Einstein who did not seem to stale minds in their time "ideologically unreliable."

This is the point at which scientists everywhere must stand and fight, or sink into the role of being the subordinates and collaborators of primitives in uniform. The AAAS has not embarked on an easy crusade.

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Every Witness Accused of Contempt by McCarthy Has Now Gone Free

Harvey O'Connor's Victory Left McCarthy's Batting Average at .000.

When the Court of Appeals in Washington reversed the conviction of Harvey O'Connor for contempt, it was the seventh straight defeat of McCarthy in one year. O'Connor's was the last of seven persons indicted for contempt of the old McCarthy committee. Last year all seven went free. McCarthy's batting average was .000.

The year began with the acquittal by Judge Aldrich in Boston of Leon J. Kamin for refusing to name associates in the Communist party. A few months later the companion indictment of Wendell H. Furry for the same offense was dismissed. On July 6, Judge Pine in Washington acquitted Diantha Hoag, a Westinghouse worker. She was charged with contempt after she waived the Fifth to deny espionage or sabotage but invoked the Amendment again when specific questions were asked about passage of information to other workers.

Then on August 14 the Court of Appeals in New York unanimously upheld Judge Weinfeld's opinion dismissing the contempt indictments of Corliss Lamont, Abraham Unger and Albert Shadowitz. On December 20, the Court of Appeals here (Edgerton, Fahy and Burger) reversed O'Connor's conviction.

It was disappointing that no court passed on the question of the First amendment. The rulings in the Kamin, Furry, Lamont, Unger and Shadowitz cases held in effect that the McCarthy committee could not ask workers and scientists in defense plants, or writers and teachers about their political associations under the guise of investigating economy and efficiency in government operations.

The O'Connor case was decided on a different point. The court held that to ask whether a man was a member of "the Communist conspiracy" was so vague as to deprive the witness of the Sixth amendment right to know exactly what he was accused of. The Court drew a parallel, as the reader will see, with the Lattimore case. Since the O'Connor decision provides some additional protection for witnesses and the text has not been made available elsewhere, we print it here.

Full Text of Circuit Court Opinion in The O'Connor Contempt Case

PER CURIAM: Appellant was convicted by a District Judge, trial by jury having been waived, of contempt of Congress as defined in 52 Stat. 942 (1938), 2 U.S.C. § 192 (1952).[1] The indictment charged that in testifying before the Permanent Subcommittee on Investigations of the Senate Committee on Government Operations appellant refused to answer the question "whether he was a member of the Communist conspiracy" when he wrote certain books which had been purchased by the State Department and distributed in United States Information Centers.

Appellant contends that neither the Committee nor the Subcommittee was authorized by the Senate to make the investigation during which the question was asked. He challenges also the pertinency of the question, with special reliance upon the First Amendment. We do not pass upon these contentions, for the conviction in any event must be set aside because the question asked was so imprecise and ambiguous that appellant's refusal to answer was not a crime. We point out that he was not indicted for refusing to say whether or not he was a member of the Communist Party, or of any other named or identifiable organization, or whether or not he had engaged in any particular activity.[2]

What the Sixth Amendment Requires

The Sixth Amendment to the Constitution provides that in all criminal prosecutions the accused shall be informed of the nature and cause of the accusation. So, also, Rule 7(c) Fed. R. Crim. P. This required in the present case that the question set forth in the indictment be definite enough to enable the accused to answer it with knowledge of its meaning. Unless this is required one who desires to answer a question truthfully can have no assurance of being able to do so because of uncertainty of the meaning attached to it by the interrogator. In *Lattimore* v. *United States*, 94 U.S. App. D.C. 268, 215 F.2d 847, we held void for vagueness an indictment charging the defendant with perjury in denying before a Congressional Committee that he was a sympathizer of Communism or Communist interests. We held that the accused was unable, and therefore could not be required, to defend against so vague a charge. The principle applies where the question is so vague that the witness is unable to answer with knowledge of its meaning. See, also, *Traub* v. *United States*, —— U.S. App. D.C. ——, 232 F.2d 43, 47.

McCarthy As Witness Helped O'Connor

That a question whether the appellant was at any time during the course of many years[3] in "the Communist conspiracy" is lacking in definiteness is shown by the following testimony, at appellant's trial, of the Committee Chairman [McCarthy] who had asked appellant the question:

> **"Q. So there are a group of people who are not members of the party who could be members of the Communist conspiracy.**
> **"A. They could be.**
> **"Q. Who would determine who these people are?**
> **"A. I dont know.**
> **"Q. Would you undertake to make that judgment?**
> **"A. No."**

One cannot be held guilty of criminal contempt for refusing to answer a question the intended scope of which is so uncertain that if he attempts to answer it truthfully, according to his understanding of the meaning, he runs the risk of being indicted for perjury because others understand it differently.[4]

The Government urges, however, that when the accused was before the Subcommittee he did not complain that the question was too vague. His refusal was based on the First Amendment and the Committee's lack of authority. We dealt with a similar problem in *Bowers* v. *United States*, 92 U.S. App. D.C. 79, 202 F.2d 447, where we held that the question of pertinency could be raised at the trial, though it had not been raised before the Committee. We pointed out that the Fifth Amendment privilege against self-incrimination is a personal privilege which must be seasonably asserted, else it is waived, but that pertinency of the question is an essential element of the crime of contempt and must be proved at the trial. It is true that pertinency is made an essential element by the statute defining the crime, while definiteness is not. Note 1 *supra*. But the Sixth Amendment to the Constitution makes definiteness an essential element of every crime. For this reason definiteness, as well as pertinency, must appear at the trial itself.[5]

Reversed.

[1] The section provides in pertinent part:
"Every person who having been summoned as a witness by the authority of either House of Congress, to give testimony * * * who having appeared, refuses to answer any question pertinent to the question under inquiry, shall be deemed guilty of a misdemeanor * * *."

[2] Before the Subcommittee appellant said, "I am not asserting the privilege against self-incrimination." And on his trial he refused to claim this privilege when asked if he was a member of the Communist Party. He indicated a willingness to answer if directed to do so by the Court; but the Court ruled he need not answer.

[3] The books were written in the years between 1933 and 1950.

[4] The existence of a Communist conspiracy does not obviate the necessity of advising the witness what is meant by such a conspiracy when he is asked to say whether or not he had been a member of it.

[5] Whether or not definiteness may be waived at the trial is not before us.

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Toting Up Some Stray Accounts From the Old Year to the New

Morally and politically, the most inspiring event of 1956 was the Montgomery bus boycott. . . . And the most depressing events of 1957 are likely to center around the efforts of racists to maintain segregation. . . . We note that Southern chivalry is already at work: one pregnant Negro woman has been wounded by a sniper firing bravely from ambush. . . . How the white supremacy atmosphere addles even the South's better brains was evident in a statement issued here by Senator Sparkman. . . . "One of the rules on which our government is founded," he said piously, "is the minority must have a way of being protected from a ruthless majority." . . . But Sparkman wasn't talking of violence by the white majority against the Negro minority. . . . He was talking of the filibuster. . . . The outlook for the biennial Senate fight against unlimited debate is not rated high on Capitol Hill, but we'll report on it next week. . . . We like best the *Chicago Tribune's* characterization of the filibuster, "It exalts the lungs at the expense of the brain." . . . Not the least memorable thing about that vivid film classic "Baby Doll" (don't miss it) are the shots of those deep South faces. . . . White supremacy and white degeneracy seem to go hand in hand, and this is what Elia Kazan and Tennessee Williams have caught magnificently in the camera lens.

A Tobacco Road Classic

This is the strata at which the Davis subcommittee of the House District of Columbia committee aimed in its report on conditions in the integrated Washington public schools. . . . This collection of all the horrid instances of sex and smut the committee could find will be a collector's item among the bibliophiles in the small town poolrooms of the South. . . . Some of the items are biologically incredible. . . . An example is the colored girl of 12 alleged to be pregnant: she "had already had one child before she came to school and was bothered about it." . . . They'll be guffawing over this report all up and down Tobacco Road. . . . But the low level of the report and its obvious one-sidedness and unreliability will not make it any the less effective a weapon for a Southern counter-offensive in Congress this session against integrated schools. . . .

We don't suppose it will keep the stuffed shirts from handing each other Peter Zenger awards as usual this year, but the feeble spirit of U.S. newspaper editors was demonstrated when it took first the twice weekly *Afro-American* and then the magazine *Look* to challenge the State Department's bluff "barring" U.S. newspapermen from Communist China. . . . The Department's own press release No. 341 of May 1, 1952, said that while U.S. passports were not valid for Iron Curtain countries, "the department emphasized that this procedure in no way forbids American travel to those areas." . . .

Our Humorous State Department

In its press release December 28, implying possible action under the Trading With the Enemy Act against the three newsmen, the Department said cutely "It should be clearly understood that in taking this action the United States is not motivated by any desire to deny to the American public information about Communist China." . . . We pass this on to the anthologists of the deadpan. . . .

In the meantime a test of the Department's right to refuse passports without disclosing the alleged unfavorable evidence is on its way back to the Circuit Court in the Weldon Bruce Dayton case. . . . Unlike Judge Youngdahl in the Boudin case, Judge McGarraghy on December 21 in the Dayton case upheld the use of undisclosed evidence. . . . If the Department gets away with this in the higher courts, it will have a new weapon with which to keep reporters from travelling. . . . When will U.S. editors wake up to the close link between the right to travel and the right to report freely? . . .

The *New York Times,* though still silent on the issues involved in the contempt cases brought against several of its staff by the Eastland committee, launched a biting editorial attack the day before Congress opened on Eastland's right by seniority to remain chairman of the Senate Judiciary Committee. . . . The New York *Journal of Commerce* (Dec. 31) in a news story on the refusal of Texas authorities to permit increased oil output to meet Europe's needs in the Suez crisis says softly, "Some oil sources . . . could not help feeling that certain producers are interested primarily in achieving the lowest possible stock level in order to force a general rise in crude oil prices." . . . The big disappointment at the year end was the refusal of the U.S. Supreme Court (Warren, Black and Douglas dissenting) to give 30 New York City school teacher victims of the witch hunt a hearing.

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